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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Before The
Federal Communications Commission
Washington, D.C. 20554

ORIGINAL
FILE

In The Matter Of

Petition to Establish
Policies and Rules
Pertaining to the Equal
Access Obligations of
Cellular Licensees

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File No. RM-8012

COMMENTS OF
SNET CELLULAR, INC.

SEP -2 1992

COMMENTS OF SNET CELLULAR, INC.FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

SNET Cellular, Inc. (SCI), as general and managing partner, files herein its comments on behalf of Springwch Cellular Limited Partnership (Springwch) in response to the Commission's Public Notice, issued June 10, 1992, seeking comments on the above captioned Petition filed by MCI Telecommunications Corporation (MCI) on June 2, 1992. In its Petition MCI seeks a rulemaking proceeding to establish rules that would require that all cellular carriers provide equal access arrangements to all interexchange carriers (IECs) for their end user customers. Springwch serves as the wireline, or Band B, cellular service provider throughout the State of Connecticut and in the Springfield-Chicopee-Holyoke, Massachusetts New England County Metropolitan Area (Springfield NECMA), and the Franklin County Rural Service Area (Franklin County RSA) in Massachusetts. For the reasons set forth herein SCI opposes MCI's Petition.

I. INTRODUCTION

SCI submits that MCI has offered no justification for the imposition of equal access requirements on cellular carriers. In fact SCI submits that imposition of equal access requirements on cellular carriers is not in the public interest and should be rejected. First, the justification that existed for landline equal access, that is a monopoly

over local access arrangements, does not exist here. To the contrary, competition is significant both between cellular carriers nationwide, and among IECs, and MCI cannot claim that it is in any way harmed by the current access arrangements. Second, significant costs would be associated with equal access conversion. These costs would be passed on to consumers, at least in part, with the result that growth in cellular markets might be adversely affected. Moreover the expenditures involved would displace other investments that have a significantly higher priority for cellular end user customers than equal access. In sum, there is no countervailing public interest consideration that would justify the expenditures that would be necessary for equal access conversion.

Indeed, MCI's motivation in pursuing this issue is a not so thinly veiled attempt to use equal access to enhance its own market share. The requested imposition of equal access requirements on cellular providers would reduce MCI's need to compete on a price basis with other IECs for cellular carrier traffic. Further, mandating equal access for cellular carriers would shield MCI from direct competition with resellers of interexchange service.

II. MCI HAS OFFERED NO JUSTIFICATION FOR IMPOSITION OF AN
EQUAL ACCESS REQUIREMENT ON CELLULAR CARRIERS

Equal access requirements for landline telecommunications had their basis initially for the Regional Bell Operating Companies (RBOCs) in the Modification of Final

Judgment entered in United States of America v. Western Electric, et al, 552 F. Supp. 131 (D.C.Cir. 1982), aff'd. sub nom. Maryland v. United States, 460 U.S. 1001 (1983) (MFJ), followed by the Commission's decision in MTS and WATS Market Structure, Phase III, 100 FCC 2d 860 (1985) relative to the independent telephone companies. The fundamental rationale was that the local exchange companies, to which these requirements were applied, were the only providers of local access in virtually every geographical area nationwide, and so purportedly had the power to limit carriers' access to local markets. In addition, at that time, competition in the interexchange market was in its infancy compared to today.

The instant situation is different in fundamental ways. First, there are at least two healthy cellular competitors in all metropolitan serving areas. Equal access requirements are not needed to foster cellular competition. Indeed equal access is irrelevant to competition in cellular markets. Nor would the imposition of equal access requirements on cellular carriers enhance competition among IECs. In fact, the IEC market is extremely competitive today, and, importantly, the IEC market for the cellular carriers' business is itself highly competitive. For example, many cellular carriers buy bulk services from the IEC that makes them the most competitive offer to carry their end user customers' traffic.

In this scenario, the most competitive IEC benefits, providing an excellent example of competitive markets at work. In such an environment, SCI submits that the imposition of external regulatory requirements would actually interfere with the workings of these markets, and be contrary to the goals espoused by the Commission in countless dockets over the years in support of competitive free markets.¹

When we find cases such as this where markets are really working, and working on their own, SCI submits that public policy should declare success and proclaim forbearance as the order of the day. Regulatory intervention in such situations can only produce market distortions and, almost surely, unnecessary costs.² This is even more the case in

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- 1 See e.g., Telephone Company-Cable Television Cross-Ownership Rules, Section 63.54 - 63-58, CC Docket No. 87-266, Further Notice of Proposed Rulemaking, First Report and Order and Second Further Notice of Inquiry, FCC 91-334, released November 22, 1991, 7 FCC Rcd 300 (1992), at para. 8; Intelligent Networks, CC Docket No. 91-346, Notice of Inquiry, FCC 91-383, released December 6, 1991, 6 FCC Rcd. 7256 (1991), at para. 1.
 - 2 MCI tries to make much of the fact that the cellular carriers affiliated with the RBOCs were required to provide equal access as a result of the MFJ. That circumstance is clearly distinguishable, however, resulting as it did from an interpretation of the meaning of certain language in the MFJ that had the effect of extending equal access requirements arguably well beyond what was originally intended when the MFJ was drafted. In any event, MFJ precedent should have no bearing here absent some clear rationale for its application. No such rationale appears in MCI's Petition.

that MCI can show no damage as a result of existing market arrangements, when most of the market today is served by RBOC affiliated cellular carriers who provide equal access pursuant to the MFJ.

III. EQUAL ACCESS REQUIREMENTS FOR CELLULAR CARRIERS WOULD RESULT IN UNNECESSARY COST

Imposition of equal access requirements on cellular carriers would be extremely costly, easily several hundreds of thousands of dollars just for Springwich's relatively small area. Necessarily such costs would be passed on, at least in part, to end user customers. In addition, the alleged benefits of equal access to cellular end users clearly would not justify this level of expenditure. On average, the majority of the end users on Springwich's cellular network do not make long distance toll calls at all, and the vast majority, 80%, have a monthly toll bill of \$2.00 or less.

Moreover, long distance access arrangements are not a critical issue for cellular end users. In fact, there are at least four areas of significantly higher priority for cellular customers: coverage, clear transmission, call hand-off and call delivery. All customers benefit from investments that improve and expand the network; whereas, only a very small percentage would stand to benefit if at all,

from equal access conversion.³

Given today's economy and the resultant slowing in the development of cellular markets, the imposition of such additional costs would appear extremely counterproductive and contrary to the public interest. These costs would result in price increases for cellular end users, further dampen growth in cellular markets, and potentially delay investments that are of significantly more importance to end users than equal access.

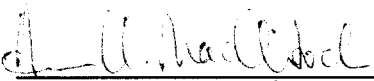
V. CONCLUSION

As set forth above, SCI strongly urges the Commission to reject MCI's Petition. To do otherwise would be to interfere unnecessarily in competitive markets that are working well. Moreover, no public interest would be served by the imposition of equal access requirements on cellular carriers as requested by MCI.

3 It is not as though end users do not have access to the IEC of their choice. End users can and do access their IEC by dialing that carrier's access code. Moreover the proliferation of speed dialing and programable equipment makes this alternative a realistic one for those who might wish to use it. It is also the case that equal access is available today from Springwich's competitor. It is of interest to note that the availability of equal access from Springwich's Connecticut competitor has given it no discernible market advantage.

Respectfully submitted,

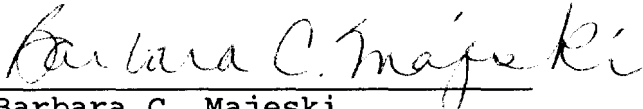
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September 2, 1992

CERTIFICATE OF SERVICE

I, Barbara C. Majeski, hereby certify that a copy of the foregoing SNET Cellular, Inc.'s Comments regarding Petition to Establish Policies and Rules Pertaining to the Equal Access Obligations of Cellular Licensees, File No. RM-8012 was sent by first-class mail, postage prepaid, on this the 2nd day of September, 1992, to the below-listed parties:


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